



ATTORNEY GENERAL Steve Six

KANSAS

Introduction to the Kansas Open Meetings Act (KOMA)

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A History of Open Meetings

County commissioners "shall sit with open doors, and all persons conducting in an orderly manner may attend their meetings."
K.S.A. 19-218 was first adopted in 1868.



KOMA Enacted in 1972

KOMA provides the rules that allow members of the public observe the nearly 4,000 units of government in Kansas making decisions.



Purpose and Construction

The public policy of Kansas is that meetings be open to the public because “a representative government is dependent upon an informed electorate. . .”



Purpose and Construction

When courts consider KOMA cases, KOMA is to be construed liberally, and exceptions applied narrowly.



Who is Subject to KOMA

All legislative and administrative bodies and agencies of the state as well as all political and taxing subdivisions, and subordinate groups that receive or expend public funds.



Who is Subject to KOMA

Subordinate groups are not defined in KOMA. The two types most likely to be subject to KOMA:

1. those created by a covered entity
2. those that have become an extension of a covered entity.



Not Subject to KOMA

1. An otherwise covered entity when exercising a “quasi-judicial” function.
2. Hearings conducted under the Kansas Administrative Procedures Act (KAPA).
3. Judiciary.
4. Private organizations.
5. Staff meetings of a covered entity.



What is a Meeting?

1. A gathering or assembly, in person or through the use a telephone or any other medium for interactive communication



What is a Meeting?

2. By a majority of the membership of an agency or body subject to this act



What is a Meeting?

3. For the purpose of discussing the business or affairs of the body or agency.



Serial Communications- Discussion Outside a Noticed Meeting

Interactive communications that collectively involve a majority of the membership, share a common topic of discussion, and are intended to reach an agreement on a matter that requires binding action of the agency or body.



Meetings Require Notice

Notice is providing the date, time and location of where the agency or body will meet.



Notice

There are no formalities to request notice.

A request is valid for one fiscal year.

There is no time requirement to provide notice.

There is no requirement to create an agenda, but if one exists, it must be made available to everyone.



Meeting Conduct

KOMA does not address meeting procedures.

The public may record a meeting, as long as it does not disrupt the proceedings.

There is no right to speak, only to listen and observe.



Executive Sessions

An open meeting must be convened.

No binding actions may be taken, but a consensus is allowed.

If a consensus is achieved, an open, formal vote must be taken in open session.



Executive Sessions

The required actions:

- ✓ A formal motion, seconded and carried and noted in the minutes
- ✓ Parts of the motion:
 - ✓ Justification for closure (specific)
 - ✓ Subject matter (from the statute)
 - ✓ Time and place of resumption of the open meeting



Executive Sessions

Subject matter allowed:

1. Personnel matters of non-elected personnel- to protect the privacy interests of employees

Employees only, not elected, contractors or appointments to boards or commissions

May discuss applicants for employment



Executive Sessions

2. Consultation with your attorney.
The attorney must be present.
The communication must be privileged.
No third parties may be present (breaks privilege).



Executive Sessions

3. Employee-employer negotiations.

For the purpose of formal negotiations-not general employee meeting or discussions.

School boards have special rules.



Executive Sessions

4. Confidential data relating to the financial affairs or trade secrets of corporations, partnerships, trusts and individual proprietorship.

The economic development exception, but make sure that the data being reviewed is confidential or a trade secret.



Executive Sessions

5. Matters affecting a student, patient or resident of a public institution.

With this subject, any hearing must be open if requested by the person involved.



Executive Sessions

6. Preliminary discussions relating to the acquisition of real property.

Acquisition only-not sale.

Remember-no binding action in executive sessions.



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Executive Sessions

7. Security Measures



Enforcement

KOMA is a civil statute-not criminal.

A citizen, county attorney or Attorney General may bring an action in the district court.

The county attorney and Attorney General may issue subpoenas.



Remedies

Remedies for violations-

Voiding action taken

Injunction (stopping action)

Mandamus (forcing action)

Declaratory judgment.



Penalties

Penalties for violations-

- Fines-up to \$500 per person

- Can be grounds for ouster from office (County attorney or Attorney General action)

- Potential grounds for recall from office (Citizen action).



Thank You!

Additional resources:

Complete KOMA outline
Frequently asked KOMA
questions and answers.